

REMARKS

This Paper and accompanying Request for Continued Examination are submitted in response to the Advisory Action dated January 10, 2007 and in further response to the final Office Action dated November 2, 2006 having a shortened statutory response period ending on February 2, 2007. This Paper is filed within the shortened statutory response period. The Commissioner is hereby authorized to charge the RCE fee of \$790.00 and any additional fees to Deposit Account number 02-1818.

Claims 1-40 are currently pending in this application. Claims 41-66 have been canceled as a result of a restriction requirement.

Claims 1-6 and 12-17 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0115795 to Shang et al. (*Shang*). Claims 7-8 were rejected under 35 U.S.C. §103(a) for allegedly being obvious over *Shang* in view of U.S. Patent No. 5,397,842 to Hamilton (*Hamilton*). Claims 9-11 were rejected under 35 U.S.C. §103(a) as being obvious over *Shang* in view of U.S. Patent No. 6,346,308 to Cahill et al. (*Cahill*). Applicants respectfully disagree with and traverse these rejections for the reasons set forth below.

Shang teaches away from a cross-link free film as recited in the present claims. It is undisputed that *Shang* discloses a film having a crosslinked component as the Examiner has admitted the same. *Shang*, ¶ 24, Office Action dated November 2, 2006 at ¶6. What is in dispute is the Examiner's interpretation of the present claim language. The Examiner asserts that *Shang's* film, which has a crosslinked first component and a non-crosslinked second component, teaches a cross-link free film. In other words, the Examiner contends that the claimed "cross-link free film" is disclosed by a *Shang's* crosslinked film. Office Action dated November 2, 2006 at ¶6. Applicants respectfully disagree with and traverse the Examiner's interpretation of the present claims.

During examination, the claims must be given their broadest reasonable interpretation consistent with the specification. *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (emphasis added). The specification is clear that the claimed film does not require any of its components to be cross-linked. Present specification, page 3 lines 1-2. In other words, the claimed "cross-link free film" is a film, the entirety of which includes no crosslinked component. Thus, the reasonable interpretation of "a cross-link free film" is a film which is not cross-linked

or contains no cross-linked component. To assert that *Shang*'s crosslinked film discloses the claimed cross-link free film is inconsistent with the meaning of "a cross-link free film" as set forth in the present application.

In addition, words of a claim must be given their plain meaning. *Chef America Inc., v. Lamb-Weston, Inc.*, 358 F.3d 1371 (Fed. Cir. 2004). Applicants respectfully submit that the Examiner's interpretation of the term "free" is inconsistent with the ordinary and customary meaning of "free." For example, the ordinary and customary interpretation of the term "a sugar-free chewing gum" is a chewing gum which contains no sugar. The present situation is analogous to this example. The ordinary and customary meaning of a "cross-link free film" is a film that has no crosslinked component, the film wholly lacking the characteristic of cross-linking. The Examiner's assertion that *Shang*'s film, which undisputedly includes a crosslinked component, discloses a "cross-link free film" is consistent with and contradicts the ordinary and customary usage of the term "free." Thus, when the claim term "cross-link free film" is 1) properly interpreted consistent with the specification and 2) given its ordinary and customary meaning, it is clear that *Shang*'s crosslinked film teaches away from the "cross-link free" film recited in the present claims.

Moreover, *Shang* fails to disclose or suggest a two-component polymer blend having a first ethylene-based component being present in an amount of 10-50% by weight of the film and a second propylene/methyl pentene component present in an amount of 50-90% by weight of the film as recited in the present claims. *Shang* discloses a two component blend, the first component being an ethylene-based component present in an amount of 55-99% by weight and the second component being present in an amount of 1-45% by weight. *Shang*, ¶¶38-39. As the weight percentages of the claimed first and second components are beyond the weight ranges disclosed for the first and second components of the *Shang* blend, *Shang* fails to disclose or suggest the claimed subject matter.

Assuming *arguendo*, that *Hamilton* and/or *Cahill* are combinable with *Shang* (which they are not as *Shang* teaches away from the present claims), *Hamilton* fails to fulfill the deficiencies of *Shang*. *Hamilton* discloses a polymer blend composed of 1) a polyolefin and 2) a segmented copolymer. *Hamilton*, col. 3 lines 33-62. *Hamilton*'s segmented copolymer is a polyolefin and vinyl aromatic copolymer. *Id.* The claimed blend contains no vinyl aromatic constituent whatsoever. Consequently, *Hamilton* fails to disclose or suggest an ethylene-based first

component and a propylene/methyl pentene second component as recited in the present claims. Moreover, the *Hamilton* blend may be crosslinked, further leading the skilled artisan in a path divergent from the present claims. *Hamilton*, col. 3 lines 60-63, col. 5 lines 61-68.

Cahill also fails to fulfill the deficiencies of *Shang*. *Cahill* discloses an oxygen barrier composition that may be used with polyolefin-based packaging. *Cahill*, col. 5 lines 30-40. *Cahill*, however, has no disclosure regarding a cross-link free polymer blend with an ethylene-based first component present in an amount of 10-50% by weight of the blend and a propylene/methyl pentene based second component present in an amount of 50-99% by weight of the blend as recited in the present claims. *Cahill* therefore fails to disclose or suggest the claimed subject matter.

CONCLUSION

In view of the foregoing remarks, Applicants submit that claims 1-40 are in a condition for allowance and respectfully request a notice of the same.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

BY 

Ted J. Barthel
Reg. No. 48,769
Customer No. 29200

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